

REMARKS

The undersigned thanks the Examiner for the timely indication of allowed claims 16-24, and allowable subject matter of claims 3, 4, 11-13, 29, and 31. Claim 1 has been amended and claims 2-3 have been cancelled without prejudice to consideration in a continuing application. Reconsideration of the present application as amended is respectfully requested.

Claims 1-10, 14, and 15 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,815,090 issued to Su (hereinafter “Su”). Claim 1 has been amended to incorporate the subject matter of dependent claim 3, which is a combination indicated to be allowable. Dependent claims 2 and 3 have been cancelled to be consistent with the change to base claim 1. While it is believed that further reasons support the allowance of various dependent claims 4-9 rejected on like grounds, in the interest of conciseness those reasons are not set forth at this time given the amendment of base claim 1 to conform to the allowable subject matter indicated in the Office Action.

Independent claim 10 was also rejected as being anticipated by Su. This rejection is respectfully traversed. The features of claim 10 include first and second pest control devices each including a corresponding first activation device or second activation device that triggers operation of a corresponding first or second monitoring circuit, and first or second indicating devices responsive to the corresponding first and second monitoring circuits. In reply to the last response, the Office Action states that claim 10 “does not recite ‘multiple activation devices’ specific for each pest control device” (Office Action, p.9). It is agreed that neither the first pest control device nor the second pest control device recites more than one activation device; however, claim 10 does recite multiple activation devices collectively – namely two in this case

– a first activation device and a second activation device. In contrast, Su discloses just a single data collection unit that is used with multiple monitoring devices. Su, col. 4, lines 9-11. Even assuming *arguendo* that this unit is a form of an activation device there is not one for each of multiple pest control devices as recited in claim 10 - - nor is such an arrangement taught or suggested in Su.

In fact, there appears to be self-doubt in the Office Action on this point. Specifically, the rejection of claim 25 asserts that “[t]he reference [Su] fails to disclose an activation device” (Office Action, p. 5). This inconsistency belies the establishment of anticipation.

The Office Action further asserts that the computer monitor of Su is an indicating device despite its remote location and the fact it only periodically communicates with the data collection unit (col. 4, lines 54-64). Again, claim 10 recites multiple indicating devices – the first indicating device and the second indicating device. Even if the computer monitor properly discloses an indicating device, it fails to disclose, teach or suggest a different indicating device for each one of the pest control devices as defined in claim 10. At least the same reasons support patentability of dependent claims rejected on the same ground.

Claims 2, 25-30, and 32-34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Su. This ground of rejection is respectfully traversed. At least the same reasons supporting the allowance of amended claim 1 also support allowance of the corresponding dependent claim 2. In addition, further reasons support the patentability of claim 2 as follows.

Recognizing that Su does not include a mechanical device that is actuated to provide the stimulus, the Office Action asserts that adding a mechanical on/off switch to allow an operator to initiate interrogation would be advantageous. To the contrary, Su is directed to providing a remote monitoring system that avoids operator activation. Accordingly, the proposed

modification undermines the operating goals of Su -- pointing to a lack of the requisite motivation to modify it as asserted. In fact, Su points away from such operator involvement (See Su, col. 1, lines 58 through col. 2, line 4). “A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.” MPEP §2141.02 (citing W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983)).

As to independent claim 25, it recites a system comprising a plurality of pest control devices that each include an activation device that is operable to selectively activate the monitoring circuitry as directed by an operator and an indicating device that is operable to provide the greater information in response to activation with the activation device. Thus, there is a one-to-one correspondence of an activation device and indicating device to each pest control device. Much like the rationale applied against claim 2, the Examiner maintains that providing an activation device, such as a power on/off switch so that the device can be selectively turned off and on at the operator's will would be an obvious modification. To the contrary, providing an operator-controlled switch to each pest control device contravenes Su's goal of greater automated, remote control operation and less operator involvement -- even more so than in the case of claim 2.

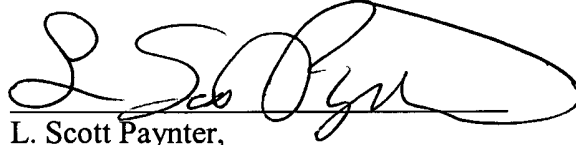
Furthermore, it appears that the Office Action relies on Su's remote computer monitor to disclose the indicating devices each for a different pest control device. In fact, Su only discloses a single computer monitor, that is at most disclosed to be part of a host computer configured to periodically collect data (See Su, col. 4, lines 54-64). There is no teaching or suggestion to provide an indicating device for each of the plurality of pest control devices as recited in claim

25. At least the same reasons support claims that depend from claim 25 and that were rejected on like grounds.

Claims 16-24 have been allowed and claims 11-13, 29, and 31 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

In view of the foregoing, it is believed claims 1 and 4-34 are in condition for allowance. The Examiner is encouraged to contact the undersigned by telephone to resolve any outstanding matters regarding the present application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. Scott Paynter', written over a horizontal line.

L. Scott Paynter,
Reg. No. 39,797
Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, Indiana 46204-2079
Direct: (317) 238-6321
Fax: (317) 238-6371